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MEMORANDUM OF LAW

DATE: November 21, 1997
TO: Mayor Susan Golding
FROM: City Attorney
SUBJECT: Adoption of Ordinances Amending Municipal Code Provisions Relating to Referendum and Recall

QUESTION PRESENTED

When may ordinances amending provisions of the San Diego Municipal Code relating to referenda and recall elections be effective?

SHORT ANSWER

Pursuant to San Diego City Charter sections 16 and 17, ordinances amending provisions of the Municipal Code relating to referenda and recall elections may be introduced and adopted on the same day, and made effective immediately, as they are ordinances “relating to elections” as that phrase is used in the Charter.

ANALYSIS

The City Clerk has proposed ordinances amending various provisions of the Municipal Code relating to referenda and recall elections. In general, the proposed changes make the City’s referenda and recall election procedures more consistent with state law.

Generally, the City Charter provides that ordinances require two readings, an “introduction” and, not less than twelve days later, a “passage” or “adoption,” and that they not be effective less than thirty days from the date of their passage. City Charter §§ 16 and 17. However, Charter section 16 provides in relevant part: “[A]ny ordinance calling or relating to

elections . . . may be passed by the Council on the day of their introduction.” Charter section 17 provides in relevant part: “[O]rdinances calling or relating to elections, . . . shall take effect at the time indicated therein.”

We are governed in our analysis by the general rule that provisions of charters must be construed in the first instance according to their plain language. The language of the Charter sections is almost identical, and provides quite plainly that ordinances “relating” to elections may be passed on the same day as introduced, and made effective immediately. The verb “relate” is defined as “to have relationship or connection,” and is thus a relatively broad term. Webster’s Ninth New Collegiate Dictionary (Merriam-Webster 1988). A very broad application, however, might defeat the Charter’s intent of having a few exceptions to the general rule that ordinances require two readings and not be effective for at least thirty days. Thus, we interpret the Charter as requiring a direct relationship or connection to elections, rather than a remote relationship or connection.¹

The proposed ordinances would amend procedures applicable to all elections of a certain type in the City. It is our opinion that the ordinances thus directly relate to elections as that term is used in the Charter. Accordingly, the ordinances may be introduced and passed on the same day, and made effective immediately.

CASEY GWINN, City Attorney

By

Leslie J. Girard
Assistant City Attorney

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cc: City Council Members
City Clerk
City Manager

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¹These ordinances are different from, for example, an ordinance amending provisions of the Municipal Code regarding campaign finance laws, as that type of ordinance does not directly “relate” to elections but more directly relates to campaigns.